
**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN W. JONES,)	Civil Action No. 19-CV-4678
)	
Plaintiff)	JURY TRIAL DEMANDED
)	
v.)	
)	
TONY MARSAGLIA, MICHAEL)	
KAMINSKI, FRANK NAJERO and)	
JOSHUA MALLERY,)	
)	
Defendants)	

**DEFENDANT, FRANK NAJERA'S STATEMENT OF UNDISPUTED FACTS IN
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

1. On or about November 7, 2017 a cell phone owned by plaintiff, ZTE Model Z717VL was seized following plaintiff's arrest on that date by Defendant Najera. (See, Najera 003 -004)
2. Plaintiff's cellphone remained in the Custody of the Lehigh County Drug Task Force. (See, Najera 036)
3. Codefendant Mallery requested Defendant Najera's assistance with obtaining plaintiff's consent authorizing a search of the cellphone. (See, Najera 036; Docket Document 70, p 35)
4. On January 10, Plaintiff travelled to Upper Saucon Police Headquarters and met with Defendant Najera and executed a consent form authorizing a search of the cellphone. (See, Najera 036, 038)

5. A true and correct copy of the written consent form signed by plaintiff on the morning of January 10, 2018 is attached hereto as Najera 038)
6. Following plaintiff's signing of the consent form, Defendant Najera delivered plaintiff's cellphone to the David M Petzold Digital Forensics Laboratory of Lehigh County and where the data contained on the cellphone and the cellphone SD card were extracted. (See, Najera 037; Docket Document 70, pp. 22 – 33)
7. Codefendant Mallery was provided a copy of the cellphone extraction report. (Docket Document 70, p 41)
8. There was no other cellphone searched or cellphone extraction obtained regarding plaintiff.
9. Plaintiff voluntarily consented to the January 10, 2018 search and extraction of data from his cellphone and cellphone SD card.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

Date: December 6, 2021

By: /s/ Paul G. Lees
Paul G. Lees, Esquire
Identification No. 68886
Attorneys for Defendant
Frank Najera

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Statement of Undisputed Facts in Support of Summary Judgment was electronically filed with the Court on December 6, 2021 and is available for viewing and downloading from the ECF System. The following counsel of record were served via electronic notification:

Keith J. Bidlingmaier, Esquire
County of Bucks Asst. Solicitor
55 E. Court Street
Doylestown, PA 18901
Attorney for Defendant Joshua Mallery

I hereby certify that a true and correct copy of the foregoing Statement of Undisputed Facts in Support of Summary Judgment was served upon the following persons via first class mail, postage prepaid, addressed as follows:

Martin W. Jones
NN-4778
SCI-Camp Hill
PO Box 8837
2500 Lisburn Rd
Camp Hill, PA 17001

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

By: /s/ Paul G. Lees
Paul G. Lees, Esquire
ID No. PA 68886
4905 W. Tilghman Street, Suite 300
Allentown, PA 18104

Dated: December 6, 2021

UPPER SAUCON TOWNSHIP PD

Incident Report Form

US-17-05034

11/08/2017

Assist Agency

COMMENTS / NARRATIVES

Title

118

Narrative Created By / Created On

ROGER MILLER

11/08/2017

Narrative Updated By / Update On

ROGER MILLER

11/08/2017

Approved By / On

Detective F. Najera USPD #12 requested marked patrol Units stop a black Chrysler Coupe PA: JPH-6844, operated by wanted person Martin Jones. He was listed for a failure to appear violation in J-Net from District Court 31-3-03. Mr. Jones also was in the area of a known drug exchange block.

I Sgt. R. Miller stopped Jones after checking Penn Dot records while following the vehicle confirming as registered to the same. Upon contact, I requested Jones show his hands at the driver widow placing them out of the door. I handcuffed him from the vehicle for safety with exiting cuffing extraction. As I placed one cuff on him to his right hand, he reached to the front area of his body with the left hand not in my view now. I immediately corrected his action verbally and he put his hand back to cuff. However, he is seen trying to access his right shirt breast pocket in the car camera. Just after cuffing I checked him for weapons, I immediately saw a vinyl purse type bag hand size in his left front pocket containing glass pipes commonly used to smoke methamphetamine. I told him I saw the methamphetamine pipes. He said he found them and they are not his.

Detective Najera resumed the control of Jones and conducted a drug investigation. He ultimately was charged with drug paraphernalia and sent to Lehigh County Central Booking under the a no known current address drug charge / wanted person hit. His car was towed by Grant's Automotive for safety.

*Anuest DTK
by KME*

US-17-05034

11/8/2017

IRF 1.6

 Approved By:
Approved On:

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NAJERA 003

UPPER SAUCON TOWNSHIP POLICE DEPARTMENT
PRISONER DETENTION RECORDLOG #: US-17-05038DATE: 11/7/2017ARRESTING OFFICER: F. Najera #12NAME: Martin William JonesDOB: 11/11/1981ASSISTING OFFICER: R. Miller #9ARREST INFORMATION (CHARGES): Title 35 Act 64Kuri Hudson #29

CELL BLOCK & TEMPORARY HOLDING RECORD

HOLDING AREA:

 CELL #1 CELL #2 CELL #3 BOOKING AREA (BA) INTERVIEW ROOM (IR)

TWENTY-MINUTE CHECKS OF CELL & HOLDING AREA (RECORD INITIALS & TIME)

<u>XAY</u>	<u>MM</u>	<u>MM</u>	<u>MM</u>	<u>MM</u>	<u>MM</u>	<u>MM</u>								
:20	:40	1:00	1:20	1:40	2:00	2:20	2:40	3:00	3:20	3:40	4:00	4:20	4:40	5:00

PHONE CALL: _____ TIME: _____

FOOD/ DRINK: WATER TIME: 1.5 hrs.LOCATION: WVD Hq

LOCATION: _____

LOCATION: _____

LOCATION: _____

TIME IN: 0235

TIME IN: _____

TIME IN: _____

TIME IN: _____

TIME OUT: _____

TIME OUT: _____

TIME OUT: _____

TIME OUT: _____

REASON: _____

REASON: _____

REASON: _____

REASON: _____

VIDEO MONITORING: YES NOOFFICER(S) WEAPONS SECURED: YES NO (Solo)HOLDING AREA CHECKED FOR CONTRABAND PRIOR TO PRISONER: YES NO POST PRISONER: YES NO
DETAINEE IN TEMPORARY HOLDING AREA PHYSICALLY ATTENDED: YES NO

PRISONER PROPERTY INVENTORY RECORD

INSTRUCTIONS: Please print clearly. Fill out completely. Enter N/A or draw a line through blocks not needed. Upon release, offer copy to detainee & forward original to records. Use reverse side if more space is needed.

1. (9x) 1.00 bills
 2. 5x) 20.00 bills
 3. (2x) 5.00 bills
 4. Assorted coins
 5. Wallet / Assorted cards

6. Phone cellular
 7. Screw driver
 8. Butane
 9. (2x) Massagers
 10. Sockets

11. gift card
 12. Hat - C 10th
 13. Small Flashlight
 14. Keys
 15. Handcuff key Sealed

Methamphetamine / Paraphernalia Power

STORAGE OF PRISONER PROPERTY IN TEMPORARY PRISONER PROPERTY LOCKER

TIME PLACED IN LOCKER: 2320VERIFYING DETAINEE SIGNATURE: Kyle Wilke #29

RELEASE OF PRISONER PROPERTY

TIME REMOVED FROM LOCKER: 0235DATE/TIME PROPERTY RELEASED: 11/8/17 Kyle Wilke

DETAINEE SIGNATURE or SIGNATURE OF TRANSFER FACILITY PERSONNEL:

Yellow items to goBULL

MEDICAL EVALUATION (EXPLAIN ABNORMALTIES IN SUPPLEMENTAL REPORT)

CURRENT HEALTH	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> ILL <input type="checkbox"/> INJURED <input checked="" type="checkbox"/> COMPLAINS OF PAIN <input type="checkbox"/> OTHER: <u>#ips</u>
BEHAVIOR (STATE OF CONSCIOUSNESS OR MENTAL STATUS)	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> DISORIENTED <input type="checkbox"/> CONFUSED <input type="checkbox"/> WITHDRAWN <input type="checkbox"/> INTOXICATED <input type="checkbox"/> VIOLENT <input type="checkbox"/> OTHER: <u>Possibly Narcotic use prior to contact</u>
BODY DEFORMITIES, TRAUMA MARKINGS, BRUISES, ETC.	<input type="checkbox"/> NONE <input checked="" type="checkbox"/> LIST: <u>Numerous Tattoos</u>
MEDICATIONS	<input checked="" type="checkbox"/> NONE <input type="checkbox"/> LIST:

Upper Saucon Police Department

Incident Report Form

US-18-00159

01/10/2018

Assist Agency

COMMENTS / NARRATIVES

Title

INVESTIGATIVE REPORT

Narrative Created By / Creation Date

FRANCISCO NAJERA

01/10/2018

Narrative Updated By / Update On

FRANCISCO NAJERA

01/10/2018

Narrative Approved By / Approved Date

DATE: 10JAN2018**SUSPECT(S):** Martin W. JONES**SUBJECT:** Agency Assist / Cellphone Download

Bucks County Detective Joshua MALLERY requested that I obtain consent from Martin W. JONES for the download of his cellphone. JONES's cellphone was in the custody of the Lehigh County Drug Task Force as a result of his Title 35 arrest.

I met with JONES this morning and obtained written consent (for the cellphone download) and advised him that his phone will be available for pickup at USPD headquarters.

NOTE(S): JONES' cellphone did not have a "hold" on it. It had been at DTF headquarters as a result of his November 8, 2017 arrest. JONES had requested that his phone be returned and I obtained the phone from DTF evidence and was holding it until JONES's arrival. He has since expressed a desire to cooperate with authorities in furthering a narcotics investigation and I referred him to MALLERY. As a result, MALLERY requested that the cellphone be downloaded.

The cellphone was downloaded at the David M. Petzold Digital Forensics Laboratory of Lehigh County and was assigned case number CF-18-00006.

IRF 1.6

US-18-00159

01/10/2018

APPROVED BY:
APPROVED ON:

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NAJERA 036

PART I

SUBMITTED TO

LEHIGH COUNTY
REQUEST FOR FORENSIC ANALYSIS

TYPE OF ANALYSIS

- CELL PHONE
 COMPUTER
 GPS UNIT
 CAMERA
 GAME CONSOLE
 EXTERNAL MEDIA
 OTHER/HAND HELD DEVICE
 VIDEO/AUDIO
 ALL OTHER

LAB NUMBER

CF-18-00006

1. SUBMIT REPORT TO (INVESTIGATING AGENCY'S NAME AND ADDRESS)

2. INVESTIGATOR'S NAME, RANK, BADGE NO. (TYPE/PRINT)

DET. FRANK NAJERA / #012

TELEPHONE NO.

610/282.3064

EMAIL ADDRESS

fn12@ustpd.org

3. INCIDENT NO.

US-18-00152

4. SUBSEQUENT SUBMISSION

5. PROP. INV. NO.

6. DATE OCCURRED

10 JAN 2018

7. OFFENSE

TITLE 35

8. LOCATION (CITY - TWP - BORO)

UPPER SAUCON TOWNSHIP

9. COUNTY

LEHIGH

10. VICTIM

CWPA

11. ACCUSED/SUSPECT NAME

MARTIN JONES

 ACCUSED SUSPECT WITNESS

12. PROP. INV. ITEM NO.

PART II

EVIDENCE INFORMATION

13.

DESCRIPTION

1 ZTE CELLPHONE S/N: 329F66835073

14. REMARKS/ADDITIONAL INFORMATION

PART III

CHAIN OF CUSTODY

15. ITEM(S) TRANSFERRED	16. DATE	18. RELINQUISHED BY	
	1/10/18	SICKLES, Anna S. [Signature]	
ITEM(S) TRANSFERRED	17. TIME	19. RECEIVED BY	
	0915	SICKLES, Anna S. [Signature]	
ITEM(S) TRANSFERRED	DATE	RELINQUISHED BY	
	1/10/18	SICKLES, Anna S. [Signature]	
ITEM(S) TRANSFERRED	TIME	RECEIVED BY	
	1430	SICKLES, Anna S. [Signature]	

LABORATORY

NAJERA 037



Upper Saucon Township Police Department
5500 Camp Meeting Road
Center Valley PA 18034
610-282-3064

DSC# US-18-00152

CONSENT TO SEARCH COMPUTER AND ELECTRONIC MEDIA

I, MARTIN JONES, hereby authorize the Officers of the Upper Saucon Police Department and any other persons so designated by the department to search the premises located at: N/A

and conduct a complete search of my computer(s), serial number(s),
ZTE MODEL Z717VL S/N:324F66835073 with other identifiers, and any electronic storage devices and all removable computer media devices and peripherals associated with my referenced computer(s). A bit stream copy of any and all devices may be made, for further analysis, retrieved from the complete search of any and all information obtained or derived from the search. The search is to include all areas of the hard drive, and removable media, whether password protected or encrypted, including but not limited to, hidden partitions, directories, and files, erased files, deleted files, files marked for deletion, slack space, and unallocated space on the drive and other electronic storage devices and media.

I further authorize the above members of the Upper Saucon Police Department to remove, take with them, retain custody over and search any property in connection with the copying and/or searching of the information sought by police including but not limited to, referenced computer(s) and all storage devices and removable media(s) associated with described computer(s) and peripherals, provided I am subsequently given a receipt for anything that is removed.

I also affirmatively represent that I am the lawful owner of the above described computer(s) and/or associated property, and I have possession and control over it for the purpose of this consent search. I give this consent freely and voluntary without fear, threat, coercion, or promise of any kind. I give this consent with full knowledge of my constitutional right to refuse or give my consent for the removal and search of the aforementioned item, a right which I am waiving by signing this consent. I can exercise these rights at any time and my consent can be withdrawn during the search and seizure of these items.

Date 1/10/18 Time 0857

Consenting party's signature Martin Jones

Printed name and date of birth MARTIN JONES

Search Conducted by Najera / Campbell

Witness's _____